

April 15, 2022

## Memorandum

**To:** Members, Committee on Financial Services  
**From:** FSC Majority Staff  
**Subject:** April 20, 2022, Housing, Community Development, and Insurance Subcommittee Field Hearing entitled, “A Matter of Life and Death: Improving Fire Safety in Federally Assisted Housing”

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The Subcommittee on Housing, Community Development, and Insurance will hold a hearing entitled, “A Matter of Life and Death: Improving Fire Safety in Federally Assisted Housing” on April 20 at 12:00 pm ET at the Hall of Fame Playhouse at the Roscoe Brown Student Center, Bronx Community College, 2155 University Avenue, Bronx, New York 10453, or on Cisco Webex. There will be two panel with the following witnesses:

### Panel 1

- **Alicka Ampry-Samuel**, Regional Administrator, Region II, Department of Housing and Urban Development

### Panel 2

- **Adolfo Carrion**, Commissioner for Enforcement and Neighborhood Services, NYC Department of Housing Preservation and Development
- **Sandra Clayton**, former resident of Twin Parks North West
- **Vanessa Gibson**, Bronx Borough President
- **Laura Kavanagh**, Commissioner of the New York City Fire Department
- **RuthAnne Visnauskas**, Commissioner and CEO, New York State Homes and Community Renewal

### Apartment Fire at Twin Parks North West

On January 9, 2022, a fire broke out at the Twin Parks North West apartment building, taking the lives of 17 Bronx residents in what was New York City’s deadliest fire in three decades.<sup>1</sup> All the victims, including 8 children, were determined to have died from smoke inhalation.<sup>2</sup> The 19-story apartment building includes 120 units, and the rents of 91 were assisted with Housing Choice Vouchers (HCVs)—15 of which were tenant-based voucher administered by the New York City Housing Authority (NYCHA) and the New York Department of Housing Preservation and Development (HPD) and 76 of which were project-based vouchers administered by New York State Homes and Community Renewal (HCR). The New York Fire Department reports the fire was caused by a malfunctioning space heater and has identified malfunctioning self-closing doors as a key factor in the loss of life and significant building damage.<sup>3</sup>

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<sup>1</sup> CNN, [The Worst Fires in New York City History Have Something in Common: Immigrant Victims](#), (Jan. 16, 2022).

<sup>2</sup> CNN, [All 17 Victims of Bronx Apartment Fire, Including 2-year-old, Died of Smoke Inhalation, NYC Medical Examiner Rules](#), (Jan. 13, 2022).

<sup>3</sup> Wall Street Journal, [Bronx Fire: Space Heater, Faulty Door Play Roles in Deadly Outcome, Say Officials](#), updated (Jan. 10, 2022).

According to New York City Fire Commissioner Daniel Nigro, “As [residents] left, they opened the door, and the door stayed open,” allowing smoke to travel throughout the building and creating deadly conditions.<sup>4</sup>

The City of New York reports that HPD coordinated with the building owner, the American Red Cross, HCR, and relevant agencies to assist displaced residents with temporary and long-term housing. Families with HCVs living in Twin Parks North West who were affected by the fire were eligible to relocate with continued tenant-based assistance, if they choose, and were provided funds to help with moving costs, including security deposits and other moving expenses.

HPD had issued at least two violation notices for faulty self-closing doors at the property in 2017 and 2019, but no self-closing door infractions had been issued to the high-rise since those violations were corrected.<sup>5</sup> HPD conducts Federal Housing Quality Standards inspections at the development for the two apartment buildings that house families with HCVs, most recently in March 2021, but reports that no self-closing door violations were issued as a result of the most recent inspection. More than 22,000 self-closing door violation notices were issued throughout New York City for other properties in the 2021 fiscal year. Federal law does not limit the ability of local jurisdictions to implement or enforce more stringent laws or standards related to fire prevention and safety, and in addition to applicability of federal law, self-closing doors are required in all residential buildings in New York City as part of the New York City Housing Maintenance Code.

The fire in the Bronx occurred within a week of a separate fire in public housing that occurred on January 4, 2022 in Philadelphia, Pennsylvania and claimed the lives of 12 residents, 8 of whom were children.<sup>6</sup> The property received a failing Real Estate Assessment Center (REAC) score in its last inspection in 2017. A subsequent investigation by the Philadelphia Fire Department, working in collaboration with other federal and local agencies, identified fire safety concerns including non-functioning smoke alarms in the unit where the fire occurred. There were no sprinklers in the units, which are not required under federal law due to the building pre-dating *The Fire Administration Authorization Act of 1992*.<sup>7</sup>

### **Current Federal Law Related to Fire Safety**

When passing *The Housing Act of 1949*, Congress for the first time affirmed a national goal of ensuring “a decent home and suitable living environment for every American family.”<sup>8</sup> Congress passed *The Federal Fire Prevention and Control Act of 1974* in response to a report of the National Commission on Fire Prevention and Control that noted that “the richest and most technologically advanced nation in the world leads all the major industrialized countries in per capita deaths and property loss from fire.”<sup>9</sup> *The Federal Fire Prevention and Control Act of 1974* established the National Fire Prevention and Control Administration, National Academy for Fire Prevention and Control, and a National Fire Data Center and promoted the development, testing, and evaluation of fire prevention and detection technology as a solution to limiting fire risk.<sup>10</sup>

*Fire Administration Authorization Act of 1992* amended *The Federal Fire Prevention and Control Act of 1974* to explicitly promote the use of automatic sprinklers and required the installation of fire

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<sup>4</sup> Washington Post, [Faulty Safety Doors at Bronx High-Rise Were Repeatedly Flagged Before Deadly Fire, Officials Say](#), (Jan. 11, 2022).

<sup>5</sup> *Id.*

<sup>6</sup> New York Times, [18 People, a Deadly Fire: For Some, Crowded Housing is Not a Choice](#), (Jan. 8, 2022).

<sup>7</sup> Washington Post, [In Deadly Fires in New York and Philadelphia, Experts See Long-Neglected Safety Challenges](#), (Jan. 11, 2022).

<sup>8</sup> 42 U.S.C. 1441. *The Housing Act of 1949* has since been amended to specifically reference fire safety.

<sup>9</sup> National Commission on Fire Prevention and Control, [America Burning: The Report of the National Commission on Fire Prevention and Control](#), (May 4, 1973).

<sup>10</sup> 15 U.S.C. Chapter 49.

sprinklers in all new government-owned high-rise buildings, including in applicable federally assisted residential buildings.<sup>11</sup> The law did not, however, require that older buildings be retrofitted with fire sprinklers unless they were undergoing a substantial renovation. In the case of federally assisted housing, there are a substantial number of units built before the date of compliance set by *The Fire Administration Authorization Act*. According to estimates produced by HUD's Office of Policy Development and Research, there are approximately 570,403 public housing units not covered by the federal sprinkler requirement because they were built prior to the passage of *The Fire Administration Authorization Act* and have not undergone substantial renovation since that Act.<sup>12</sup> Based on a HUD analysis, if all buildings that were not covered by *The Fire Administration Authorization Act* were to be renovated with fire sprinklers, the cost would range from \$1 billion to \$5 billion.<sup>13</sup> Many public housing authorities recognize the benefit to installing such systems, but report that inadequate funding limits the number of upgrades they can make.<sup>14</sup> In addition to requirements for new government-owned high-rise buildings, *The Fire Administration Authorization Act* required all dwelling units receiving housing assistance to be protected by hard-wired or battery-operated smoke detectors installed in compliance with National Fire Protection Association codes and standards.<sup>15</sup>

### **Fire Safety and Inspection Standards in Federally Assisted Housing**

HUD conducts physical inspections for all HUD-assisted housing to ensure residents live in decent, safe, and sanitary conditions.<sup>16</sup> All public housing and federally assisted multifamily properties are subject to Uniform Physical Condition Standards (UPCS), which serve as an inspection protocol to measure a property's physical condition. These inspections are conducted on a risk-adjusted basis; properties are generally inspected annually, but lower-risk properties may be inspected every two or every three years.<sup>17</sup> The inspections are done through REAC, which HUD established in 1998 to provide accurate information assessing the condition of properties owned, insured, or subsidized by HUD.<sup>18</sup> HUD provides a REAC score for each property with a failing score being below 60 (out of 100). Any deficiency identified during an inspection that threatens the life, health and safety of residents is required to be remediated within 24 to 72 hours.<sup>19</sup> In contrast, apartment units rented by households with a Housing Choice Voucher are subject to Housing Quality Standards (HQS) instead of UPCS. Prior to a voucher holder moving into a unit, a HQS inspection typically must be completed, and the unit must meet basic requirements. HQS is a less rigorous scoring model than UPCS, as it only covers deficiencies in the unit being rented, rather than the entire property, including common areas. UPCS is also more prescriptive regarding the list of items that must be inspected and when such items are deficient.<sup>20</sup>

According to an analysis done by the Associated Press, health and safety inspection scores in housing supported by HUD have been declining for years.<sup>21</sup> During the Obama administration, the average public housing and multifamily REAC scores were 88.5 and 85.6 respectively; these scores fell to 78.6

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<sup>11</sup> 15 U.S.C. 2227.

<sup>12</sup> However, HUD notes that a substantial portion of these units "have either fire sprinklers or fire suppression systems, whether required under local code or because the PHA chose to invest in such systems." Letter from HUD to Senator Tina Smith (June 4, 2021) (on file with Financial Services Committee staff).

<sup>13</sup> *Id.*

<sup>14</sup> Axios, [Minnesota's Push for Sprinkler Systems in Public Housing](#) (June 26, 2021).

<sup>15</sup> 15 U.S.C. 2227.

<sup>16</sup> HUD, [Physical Inspection Scores](#) (accessed Mar. 23, 2022).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> 24 CFR Parts 5 and 200 – Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing; Administrative Process for Assessment of Insured and Assisted Properties; Final Rule.

<sup>20</sup> Ohio Housing Finance Agency & Ohio State University, [Health Impact Assessment](#) (2014).

<sup>21</sup> Associated Press, [Health and Safety Conditions Worsen in US-Subsidized Housing](#) (April 9, 2019).

and 81 during the Trump administration.<sup>22</sup> A large part of why scores have been falling over the years is that Congress does not provide sufficient funding to address the backlog of capital needs in federally assisted housing. The current public housing capital backlog is estimated to be over \$70 billion.<sup>23</sup> This funding is needed to repair and improve public housing properties, address deferred maintenance needs, and replace obsolete utility systems. A 2017 assessment found that NYCHA alone faced \$32 billion in capital needs over five years.<sup>24</sup>

HUD collects data on the most frequently cited deficiencies in both public housing and multifamily housing. In 2015, HUD published the top 25 deficiencies in public housing. Damaged hardware or locks on doors, missing or inoperable smoke detectors, and blocked or unusable emergency exits were among the deficiencies most often cited.<sup>25</sup> HUD reported 7,718 missing or inoperable smoke detector deficiencies and 7,530 deficiencies regarding blocked or unusable emergency exits.<sup>26</sup> The 2015 data for multifamily housing shows a similar set of defects. While HUD inspects for a variety of physical conditions, inspectors look for exigent deficiencies that threaten life, health, or safety of residents. These high priority deficiencies include exposed wires and open panels, water leaks on or near electrical equipment, emergency exits blocked or unusable, carbon monoxide hazards and other gas leaks, and missing or misaligned chimneys.<sup>27</sup>

Due to the wide-spread health emergency associated with coronavirus pandemic, in March 2020, HUD postponed physical inspections on all properties out of concern of the health, safety, and welfare of residents and others involved in the inspection process. HUD restarted its inspection program in June 2021 and substantially increased the frequency of REAC inspections, particularly for failing properties.<sup>28</sup> HUD's return to inspections included the announcement of the Big Inspection Plan (BIP), which aims to address the backlog in REAC inspection. Under the BIP, REAC will complete approximately 35,000 inspections, and as of January 2022 had completed approximately 8,400 or 24% of the backlog.<sup>29</sup> As of January 14, 2022, 4.7% of HUD assisted properties received a physical inspection score below 60 during their last inspection.<sup>30</sup>

HUD is currently undergoing the first major update to its physical inspection model in 20 years with the development of the National Standards for the Physical Inspection of Real Estate (NSPIRE) demonstration to evaluate new models for assessing the physical conditions of federally assisted housing. This effort was undertaken after Congress directed HUD in 2015 to implement a single inspection protocol to evaluate HUD-assisted housing across multiple HUD programs to create a unified assessment of housing quality.<sup>31</sup> In late 2019, REAC began to test the NSPIRE model developed under the demonstration with a pilot group of public housing agencies and owners of HUD-assisted properties.<sup>32</sup> In September 2021, HUD announced the continuation of the NSPIRE demonstration through April 2023, after which HUD plans to fully implement this model. New NSPIRE related standards include the addition of several

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<sup>22</sup> *Id.*

<sup>23</sup> National Association of Housing and Redevelopment Officials, *NAHRO Capital Fund Backlog One-Pager* (2019).

<sup>24</sup> STV AECOM PNA, *Physical Needs Assessment 2017 prepared for New York City Housing Authority* (March 25, 2018).

<sup>25</sup> HUD, *Top 25 RAPID 4.0 PIH Deficiencies* (accessed Mar. 24, 2022).

<sup>26</sup> *Id.*

<sup>27</sup> HUD, *Notification of Exigent and Fire Safety Hazards Observed* (accessed Mar. 24, 2022).

<sup>28</sup> HUD, *Property & Unit Inspections Information for Residents* (accessed Mar. 23, 2022).

<sup>29</sup> HUD Letter to Congresswoman Maxine Waters (Feb. 11, 2022) (letter on file with Financial Services Committee staff).

<sup>30</sup> *Id.*

<sup>31</sup> FR-5928-N-02 Notice of Continuation of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing.

<sup>32</sup> HUD, *The Building of a New Inspection Model – National Standards for the Physical Inspection of Real Estate (NSPIRE)* (accessed Mar. 23, 2022).

critical health and safety requirements such as new standards for smoke alarms and fire doors and will allow tenants to provide feedback about the conditions of their units.

### **President Biden's Budget Request and the Build Back Better Act**

President Biden's Fiscal Year 2023 budget request to Congress includes \$71.9 billion for HUD, approximately \$6.2 billion more than the FY 2022 enacted level, to support HUD's mission to create and support quality affordable homes.<sup>33</sup> The request includes \$3.2 billion for public housing capital fund.<sup>34</sup> \$60 million of the administration's request for public housing is specifically to address safety deficiencies via Housing Health Hazard Grants.<sup>35</sup> These grants would remediate hazards such as mold, carbon monoxide, pest infestation, radon and housing hazards and HUD intends to prioritize funding requests to enhance fire safety; including the funding of fire suppression systems such as fire sprinkler systems.<sup>36</sup> Evaluations would include comprehensive assessments of fire hazards and seek to help prevent injury and death to residents.

The request also includes \$400 million for the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH), which is \$15 million more than the FY 2022 enacted level.<sup>37</sup> The Office gives grants to local governments and nonprofits to reduce lead and housing-related health hazards in homes of low-income families and enforces regulations and provides technical assistance on questions related to health and safety hazards. Specifically, the budget request includes \$65 million to mitigate multiple health hazards other than lead paint in low-income housing, including fire hazards, as well as \$5 million to develop and evaluate practices and interventions that reduce or eliminate health and safety hazards in housing.<sup>38</sup>

*The Build Back Better Act*, passed by the House in November 2021, \$150 billion to expand access to affordable, accessible housing, and includes funding to address health and safety hazards in federally assisted housing. The bill includes \$65 billion to repair and modernize public housing, \$1.6 billion to revitalize distressed multifamily properties, and \$5 billion to address lead and other health and safety hazards in low-income housing.

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<sup>33</sup> HUD, [Fiscal Year 2023 HUD Budget](#) (accessed Mar. 24, 2022).

<sup>34</sup> HUD, [2023 Congressional Justifications](#) (accessed Mar. 24, 2022).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

## Appendix: Legislation

- **H.R. 6528, the “Housing Temperature Safety Act of 2022,” (Torres)** is a bill to require the installation of temperature sensors in federally assisted housing.
- **H.R. 6529, the “Twin Parks North West Fire Safety Act of 2022,” (Torres)** is a bill to require the installation of self-closing doors in federally assisted housing.
- **H.R. 3279, the “HUD Inspection Oversight Act of 2021,” (Lawson)** is a bill that modifies inspection and oversight protocols under the Housing Choice Voucher Program, including by directing HUD to take certain enforcement actions when a property’s inspection score falls below a specific threshold.
- **H.R. 6880, the “Choice in Affordable Housing Act of 2022” (Cleaver)** is a bill to improve the ability of Housing Choice Voucher (HCV) holders to access safe and decent affordable housing through grants to encourage landlord participation in the HCV program, as well as reforms to the HCV program.
- **H.R. \_\_\_\_\_, the “Safe at Home Act of 2022,”** is a discussion draft to unify and strengthen health and safety standards for HUD and USDA assisted housing.
- **H.R. \_\_\_\_\_, (Dean)** is a discussion draft to require the installation of sealed, tamper-resistant smoke detectors in federally assisted housing, and to authorize \$2 million for a public awareness campaign on health and safety features in housing.
- **H.R. \_\_\_\_\_, the “Housing Inspections Accountability Act of 2022,” (Ocasio-Cortez)** is a discussion draft to require HUD and USDA to submit annual reports to Congress regarding filed property inspections of federally assisted housing and to make such reports publicly available.
- **H.R. \_\_\_\_\_, the “Consumer Protection for Tenants Act,” (Williams)** is a discussion draft to authorize the Consumer Financial Protection Bureau to collect and address consumer complaints from renters, such as unlawful evictions or maintenance delays.
- **H.R. 2638, the “Public Housing Fire Safety Act,” (Watson Coleman)** is a bill to create a grant program for public housing agencies to install automatic sprinkler systems.